

## Excerpt from the 2014 Trafficking in Persons (TIP) Report

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### UKRAINE – Tier 2 Watch List

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In February 2014, former Ukrainian president Viktor Yanukovych abandoned his position and fled the country, resulting in parliament voting in a new government. However, between February and April 2014, the Russian Federation militarily intervened in, occupied, and attempted to annex Crimea, and destabilized parts of eastern Ukraine in advance of May 25 presidential election. Russian-backed “separatists” seized government buildings, took hostages, and terrorized the populations of several cities and towns in the east and south, and in May held illegal referenda on “independence” from Ukraine in the regions of Donetsk and Luhansk.

Ukraine is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Ukrainian victims are subjected to sex trafficking and forced labor in Ukraine as well as in Russia, Poland, Iraq, Spain, Turkey, Cyprus, Greece, Republic of Seychelles, Portugal, the Czech Republic, Israel, Italy, South Korea, Moldova, China, United Arab Emirates, Montenegro, the United Kingdom, Kazakhstan, Tunisia, and other countries. Ukrainian women and children are subjected to sex trafficking within the country. A small number of foreign nationals, including those from Moldova, Russia, Vietnam, Uzbekistan, Pakistan, Cameroon, and Azerbaijan, were subjected to forced labor in Ukraine in a variety of sectors including construction, agriculture, manufacturing, domestic work, the lumber industry, nursing, and street begging. Some Ukrainian children are subjected to forced begging. Ukrainians most at risk of trafficking are from rural areas with limited access to employment opportunities and are often targeted by Ukrainian recruiters using fraud, coercion, and debt bondage. Children in orphanages and crisis centers continue to be particularly vulnerable to trafficking within Ukraine.

The Government of Ukraine does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the reporting period, under the leadership of former Ukrainian president Viktor Yanukovych, the government adopted standards of social services for victims; re-established the anti-trafficking unit as a separate, stand-alone subdivision; and significantly increased the number of officers in the anti-trafficking unit. Despite these efforts, the government did not demonstrate overall increasing anti-trafficking efforts compared to the previous reporting period; therefore, Ukraine is placed on Tier 2 Watch List. For the third year in a row, the government investigated fewer trafficking offenses and prosecuted fewer defendants. The government also identified significantly fewer trafficking victims—approximately a third of the number of victims identified in 2011—although NGOs report that they are still serving a very large number of trafficking victims. Foreign victims were punished, as some victims were held in detention centers for deportation. Funding to NGOs providing victim assistance and support remained inadequate.

#### **Recommendations for Ukraine:**

Vigorously investigate trafficking offenses and prosecute and convict defendants and officials complicit in human trafficking; increase victim identification by training officials on victim identification and assistance; ensure victims are protected and provided assistance under the trafficking law, and are not punished for crimes committed as a direct result of being trafficked; ensure that victims of trafficking who come forward to obtain official status are not subjected to intimidation and repeated interviews with multiple officials; ensure government officials are aware of the rights of victims under the anti-trafficking law and train local officials on procedures to refer victims to assistance and develop victim identification manuals for their use; train law enforcement, judges, and prosecutors in the investigation and prosecution of trafficking cases; harmonize

migration and employment legislation to ensure foreign and stateless victims of trafficking are able to obtain temporary residency status and seek employment as permitted under the anti-trafficking law, and clarify procedures for doing so; fund NGOs providing services and shelter to victims of trafficking; ensure effective implementation of the national referral mechanism in all regions through systemic training of government officials and front-line responders on their roles and responsibilities to protect and assist victims of trafficking; reduce the turnover of personnel within the Ministry of Social Policy across the regions to retain knowledge and capacity to identify and provide assistance to victims; ensure the full range of protective measures allowed under the witness protection law are consistently applied in practice for victims of trafficking; sufficiently fund full implementation of the national action plan; strengthen the national referral mechanism by building the capacity of officials to identify child trafficking victims and institute screening for trafficking in crisis centers and orphanages through child-friendly practices; and collect disaggregated data based on sex or labor trafficking.

## **Prosecution**

Under the Viktor Yanukovich government, the Government of Ukraine decreased anti-trafficking law enforcement efforts by investigating fewer trafficking offenses and prosecuting fewer defendants; however, the government re-established its anti-trafficking law enforcement unit. Article 149 of the criminal code prohibits all forms of both sex and labor trafficking and prescribes penalties from three to 15 years' imprisonment. These penalties are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. The government investigated 130 trafficking offenses in 2013, compared with 162 in 2012 and 197 in 2011. The government prosecuted 91 trafficking cases under Article 149, a decrease from 122 in 2012 and 135 in 2011. The government convicted 109 trafficking offenders in 2013, compared with 115 in 2012 and 158 in 2011. Of the 109 convicted trafficking offenders, 34 were sentenced to imprisonment terms ranging from less than one year to 10 years, and the assets of 16 defendants were confiscated. The government did not identify which law enforcement efforts involved sex trafficking and which involved labor trafficking.

In 2011, the anti-trafficking unit of the Ministry of Interior, responsible for the detection and investigation of trafficking crimes, was disbanded along with experienced anti-trafficking detectives; however, in August 2013, the Minister of Interior re-established the anti-trafficking unit as a separate, stand-alone subdivision, increasing the number of officers assigned to trafficking in persons from 270 to more than 500 nationwide. The government trained 14 detectives on combating trafficking in persons; and in cooperation with NGOs, trained 5,129 officials on trafficking awareness and approximately 300 government personnel on the national referral mechanism. The government collaborated with other governments on a variety of international anti-trafficking law enforcement efforts. The border service reported conducting interviews with outbound women, and with children traveling without parents, that included warnings about the risks of being involved in criminal activities abroad. The Government of Ukraine did not report any investigations or prosecutions of government employees for alleged complicity in trafficking-related offenses during the reporting period, despite reports of corruption in other sectors in the government.

## **Protection**

Under the Yanukovich government, the government displayed mixed protection efforts; experts continued to report problems with the government's implementation of the 2011 anti-trafficking law, including issues with granting official victim status affording them the right to access legal, medical, and social assistance to victims, difficulties with applying the national referral mechanism (NRM) at the local level, and the lack of legal status for foreign trafficking victims. For example, under the anti-trafficking law, implementation of the NRM was the responsibility of local

administrations. As a result, regions have designated different local departments as coordinators responsible for identifying and assisting victims of trafficking, creating significant confusion among victims and service providers. In addition, procedures for granting official status to victims did not work in some regions. NGOs reported that the certification process for the victims involved many intensive interviews and the victims were subjected to intimidation and ridicule. The government reported that 107 victims were identified in 2013, a continued decrease from 187 in 2012 and 294 in 2011. Of the 107 victims identified, 72 were female and five were child victims. The percentage of victims identified by law enforcement continued to decrease and local authorities referred fewer victims. The social services agency continued to maintain a formal system of inspection, which included regular monitoring of vulnerable populations to identify persons in crisis, including victims of trafficking. Despite the identification of 107 victims, the government granted only 54 victims official victim status under the 2011 anti-trafficking law; 16 victims obtained official status in 2012. Of the 54 victims granted victim status, 25 had been subjected to forced labor and 14 to sex trafficking. In contrast to the victims who obtained official status, in 2013 one service provider reported assisting 929 victims, of whom 52 percent were men, compared with 945 in 2012.

International donors continued to provide the majority of funding for anti-trafficking activities and assistance to victims. In April 2013, the government entered into a partnership agreement with the national coalition of anti-trafficking NGOs, an organization made up of 22 NGOs that provide assistance to trafficking victims. The agreement provided for the development and implementation of joint anti-trafficking programs and joint participation in local, national, and international initiatives. In April 2013, the government adopted procedures allowing NGOs to request financial support, although the government did not report whether NGOs have received funds under these procedures. The planned funding for 2013 to 2015 included the equivalent of approximately \$120,000 annually from the central state budget for NGOs to combat trafficking in persons. The government disbursed the equivalent of approximately \$38,000 for one-time financial assistance to officially recognized victims. Under the trafficking law, victims were entitled to receive a range of assistance from the government, including free temporary housing at a government shelter, psychological assistance, medical services, career counseling and vocational training, assistance with employment, and restoration of identification documents. These services were provided through government programs not specifically designated for victims of trafficking. The government operated social service centers that were responsible for assessing victims' needs and drafting rehabilitation plans. Victims of trafficking were eligible to stay at centers for socio-psychological assistance for up to 90 days and receive psychological and medical support, lodging, food, and legal assistance. Women and men were accommodated in separate rooms. Victims could leave the facilities at will. Child victims could be accommodated in centers for socio-psychological rehabilitation of children for up to 12 months and receive social, medical, psychological, education, legal, and other types of assistance. The government did not report how many victims received assistance in these centers; however, an NGO reported that most victims who needed accommodation were placed in such centers or in NGO-run facilities. Two NGO-run facilities exclusively for trafficking victims were operating in 2013; one provided comprehensive medical assistance and short term accommodations and the other provided only shelter. In 2013, the Ministry of Social Policy (MSP) adopted uniform standards so that the same social services for victims would be provided regardless of which local office provided the assistance; however, the MSP lacked sufficient authority to establish and run the NRM in an efficient manner. In 2013, high turnover of personnel within the MSP across the regions resulted in a lack of knowledge and capacity to identify and provide assistance to victims. Provisions in the NRM related to child victims of trafficking and how to provide services to this vulnerable group were unclear. The government, in coordination with international groups, trained over 2,500 officials across the country on victim assistance.

The anti-trafficking law affords foreign victims the right to remain in the country, but the migration service did not recognize victim status as a basis for protected status under the Law on the Legal Status of Foreigners. As a result, trafficking victims officially recognized by the government remained without legal status in the country and in fear of deportation. For the first time ever, six foreigners received official victim status last year. Even though the anti-trafficking law affords victims two years of access to services, this was available in theory only, as the majority of foreign victims could not obtain legal status to remain in Ukraine. Employment laws had not been amended to allow official foreign victims to work legally. Foreign victims were able to receive shelter for up to three months which could be extended by local authorities. The government did not provide information regarding whether these victims received temporary residency permits or had legal authority to seek employment. Victims were able to file a civil suit as part of the criminal process against traffickers. Some victims were granted an equivalent of approximately \$2,380 in compensation by the court, which was more than they had generally been granted in previous years. The government reportedly ordered the deportation of 24 foreign victims of forced labor. An NGO filed an appeal on behalf of the victims who were subsequently released and accommodated in a center for social and psychological assistance. A range of protective measures were available under the witness protection law, yet in practice these measures were rarely applied by prosecutors, and victims of trafficking serving as witnesses were often not treated in a victim-sensitive manner.

## **Prevention**

Under the Yanukovych government, the Government of Ukraine increased trafficking prevention activities by establishing a new working group to review the anti-trafficking legislation. The government had a national action plan for 2012-2015 and allocated the equivalent of approximately \$63,000 from the state budget for its 2013 implementation and to develop an awareness campaign that will be finalized in 2014. NGOs reported receiving the equivalent of approximately \$15,000 from local administrations for prevention activities. The State Border Guard Service (SBGS) developed risk profiles for use in victim identification, and in coordination with an NGO, started development of a victim identification manual for first- and second-line officers. The MSP continued in its role as national anti-trafficking coordinator and published a report on its activities conducted by local administrations in 2012 and 2013. The activities focused on prevention and were conducted in cooperation with local NGOs. The MSP established a working group on improving trafficking related legislation; although practical efforts were hampered by legal and bureaucratic impediments. Despite its coordination function, the MSP had no authority to assign tasks to other Ministries. The government, in coordination with an NGO, televised three public awareness campaigns and the SBGS prepared 40 anti-trafficking spots for Ukrainian television and published 100 articles in print and electronic media. The government, in continued cooperation with an international organization, conducted four counter-trafficking pre-deployment trainings for Ukrainian troops assigned to multinational missions. The government did not demonstrate specific efforts to reduce the demand for commercial sex acts and forced labor. The government did not report any efforts to reduce participation in international child sex tourism by Ukrainian nationals.